In The
Supreme Court of the United States

October Term, 1979

No. 79-1740

GERMAIN H. BALL, et al.,
Appellants,

vs.

ROLAND W. JAMES, et al.,
Appellees.

On Appeal from the United States Court of Appeals for the Ninth Circuit

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MOTION TO AFFIRM

BRUCE MEYERSON
AMY J. GITTLER
Arizona Center for Law
in the Public Interest
P.O. Box 2783
Phoenix, Arizona 85002
Tel. (602) 252-4904

Attorneys for Appellees

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MOTION TO AFFIRM

Pursuant to Rule 16 of the Rules of the Supreme Court of the United States, appellees respectfully request that the final judgment and decree of the Court of Appeals be affirmed on the ground that the question is so unsubstantial as not to warrant further argument.

QUESTION PRESENTED

Whether a multi-purpose political subdivision which provides electric service to one-quarter million customers and 60% of the municipal water supply for approximately 1.5 million people may condition voting on property ownership.

STATEMENT OF THE CASE

The Salt River Project Agricultural Improvement and Power District (Salt River District or District) is only one of the many thousands of units of local government in the United States. But to the residents of the Phoenix metropolitan area its pervasive electric and water activities make it the paramount governmental body in central Arizona. The Salt River District is most certainly unique among the many political subdivisions in this country. Wearing one hat, it operates the Salt River Reclamation Project, the first

reclamation project authorized under the Federal Reclamation Act. Facts ¶¶ 1, 5.[1] Wearing another hat, it administers a water delivery system, through its agent, the Salt River Valley Water Users' Association, which supplies 60% of the water used for municipal purposes in metropolitan Phoenix. Facts ¶ 42. And finally, wearing its electric power hat, the District operates the second largest electric utility in Arizona, and the seventh largest publicly-owned electric utility in the United States. AMERICAN PUBLIC POWER ASSOCIATION, THE PEOPLE'S RIGHT TO CHOOSE 15 (1978).

Not only does the Salt River District play a pivotal role in the delivery of energy and water services in Arizona, but it is key in the development of energy and water policy formulation in the rapidly growing Phoenix area. Because of its varied functions it is heavily involved in such diverse activities as development of alternative energy sources, groundwater reform, participation in nuclear power generation, flood control, participation in the Central Arizona Project and home energy audits to encourage conservation.

In addition to affecting the lifestyle of all residents in its geographic area, the District's activities are financed almost entirely by its electric customers. Ninety-eight percent of District revenues are from sales of electricity. Facts ¶ 46. Additionally, 83% of water system costs are also financed by power revenues. Facts ¶ 45. Twenty-five percent of District water is delivered to municipalities, Facts ¶ 74, and paid for from city water revenues. Facts ¶ 82.

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[1] "Facts" refers to the Stipulated Statement of Facts set forth in Appendix C to the Jurisdictional Statement.

Appellants misstate the relationship of the District's water activities to its power functions.[2] Appellants imply that the District's power activities are entirely subordinate to its water activities. But under Arizona law, the District has express authority to supply power to its residents without regard to its reclamation purposes. A.R.S. § 45-903(A) (6) (1956).

Regardless of how appellants choose to characterize the District, it is, first and foremost, a "political subdivision of the state ... entitled to all the immunities and benefits granted to municipalities ...." *City of Mesa v. Salt River Project Agricultural Improvement and Power District*, 92 Ariz. 91, 97, 373 P.2d 722 (1962). The District's enabling act and the Arizona Constitution place it on par with municipalities. Ariz. Const., Art. 13, § 7; A.R.S. § 45-902 (1956). The Directors of the District, the appellants herein, have plenary and complete power to direct District operations and affairs, including the authority to set rates for water and electric service. A.R.S. §§ 45-934-937 (1956) (1979 Supp.).[3]

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[2] For example, at page nine of the Jurisdictional Statement, referring to the Stipulated Statement of Facts, appellants state that the "development and sale of electrical power ... was not undertaken for the primary purpose of providing electricity to the public but to support the primary irrigation functions .... Facts ¶ 17." But paragraph 17 refers to the "Salt River Project" which describes the reclamation project, Facts ¶ 1, not the District. The activities of the federal reclamation project are distinct and separate from the District's responsibilities under Arizona Law.

[3] In 1955 the Arizona Corporation Commission approved an agreement between Arizona Public Service Co. and the District which allocated service territory for each utility. Facts ¶ 47. The District provides electricity to about 75% of the combined areas of Phoenix, Scottsdale, Tempe, Mesa, Glendale, Chandler, Peoria, Tolleson and Gilbert. Facts ¶ 37; Exh. K., p. 8.

The dispute in this case centers on whether the District's one acre, one vote system is subject to traditional equal protection analysis or whether it is the type of limited-purpose unit of government discussed in *Salyer Land Co. v. Tulare Lake Basin Water Storage District,* 410 U.S. 719 (1973).

ARGUMENT

I. THE COURT OF APPEALS CORRECTLY APPLIED THE HOLDING IN *SALYER LAND CO. v. TULARE LAKE BASIN WATER STORAGE DISTRICT.*

A. Salyer is a narrow exception to the one person, one vote requirement.

The Court has reiterated many times that the right to vote is considered one of the most sacred and important rights in our society. *Reynolds v. Sims,* 377 U.S. 533 (1964); *Yick Wo v. Hopkins,* 118 U.S. 356 (1886). Thus, limitations on the one person, one vote principle have been struck down in a variety of circumstances, even though the governmental unit was not a so-called "general purpose" political subdivision. *Police Jury of Parish of Vermilion v. Hebert,* 404 U.S. 807 (1971) (road district); *Hadley v. Junior College District of Metropolitan Kansas City,* 397 U.S. 50 (1970) (junior college district); *Kramer v. Union Free School Dist. No. 15,* 395 U.S. 621 (1969) (school district).

In *Salyer,* the Court established a narrow exception to the traditional one person, one vote standard. Because the Tulare Water Storage District had a "special limited purpose," with relatively "limited authority," 410 U.S. at 728, and because its activities disproportionately affected landowners, *id.* at 729, land-based voting was reviewed under the test of reasonableness rather than a stricter standard of review. In short, the Court found the election process to be

of "special interest" to a discrete group primarily affected by the water district's activities. *Holt Civic Club v. Tuscaloosa*, 439 U.S. 60, 69 (1978); *Hill v. Stone*, 421 U.S. 289, 295 n.5 (1975).

In *Salyer* the Court was confronted with a district engaged in water storage and delivery operations for a remote agricultural area in which only 77 people resided. *All* costs of the water delivery operations were charged against landowners in proportion to services rendered. Over three-fourths of the land was owned by four corporations.[4] The Court concluded that because of its special, limited purpose, and because its activities disproportionately affected landowners, land-based voting would be measured against the reasonableness test.

B. *The holding of the Court of Appeals is entirely consistent with Salyer.*

Although appellants characterize the opinion of the Court of Appeals as undercutting the logic and rationale of the Court's holding in *Salyer*, an objective review of the opinion reveals that the contrary is true. The Court of Appeals carefully reviewed the functions and effects of the Salt River District in light of the standard established in *Salyer*. Size,[5] per se, was not used to distinguish the Salt River District from the water district in *Salyer*.

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[4] This is to be contrasted with the Salt River District where there are over 359,000 property owners. Facts ¶ 73.

[5] Although not "wholly determinative," differences in the "size of the population served" should not "be ignored in assessing the effects of *Salyer*." *Choudry v. Free*, 131 Cal. Rptr. 654, 552 P.2d 438, 443 (1976). In *Choudry* the California Supreme Court considered the acreage voting restrictions of the Imperial Irrigation District, remarkably similar to the Salt River District. Finding, *inter alia*, that the directors of the Imperial District, "decide such issues as rate increases for water and power, the distribution of water between agricultural and nonagricultural uses, and other matters which could vitally affect the economic welfare of the residents," the court held that it was unconstitutional to condition voting upon land ownership. 552 P.2d at 441.

The Court's opinion in *Salyer* identified two criteria which must be met if the election process of a local governmental unit would not be subject to the careful scrutiny of preceding cases. Such a governmental body must have (1) a special limited purpose, and (2) a disproportionate effect of its activities on landowners as a group. 410 U.S. at 728. The Court of Appeals' opinion is clearly predicated upon this standard.

The Court of Appeals concluded:

> [T]oday the size and *nature* of the projects of the District and the *effect* of its operation on all of the residents of Arizona are far more *extensive* than those of the district in *Salyer*.
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> * * *
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> In view of the *broad scope* and *impact* of its activities, the Salt River District cannot be characterized as having a special limited purpose.
>
> * * *
>
> [U]nlike *Salyer*, the *financial burden* of operating the District *does not fall* entirely or even primarily *on landowners; it falls* instead *on the purchasers of electricity*. J.S.,[6] pp. A-5, 6 (emphasis added).

The Court of Appeals meticulously scrutinized the activities of the Salt River District in accordance with the holding of the Court in *Salyer*.

Although many special purpose districts carry on their limited activities far from the general population, the Court of Appeals properly recognized that the Salt River District provides essential public services. The Court of Appeals correctly observed that the Salt River District is engaged in "far-reaching electric power operations. It is the second

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[6] "J.S." refers to the Jurisdictional Statement.

largest electric utility in the State of Arizona and services nearly a quarter million persons." J.S., p. A-5.[7]

Unlike the water district in *Salyer,* the Salt River District is not concerned solely with providing water for agriculture. "Its formerly rural area encompasses today eight Arizona municipalities, including major portions of

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[7] Appellants' explanation of the District's power functions severely distorts its independent status under Arizona law. The District's electric system, which generates 98% of its total revenues, Facts ¶ 46, is completely independent of its irrigation activities (except the 4% of the District's capacity which is generated by hydro-electric power). The District has the express statutory authority under Arizona law to sell power without regard to water delivery.

One of the specific purposes for which agricultural improvement districts may be organized is to "*provide power ... for the use of the owners or occupants of the lands.*" A.R.S. § 45-903(A)(6) (1956) (emphasis added.) Thus, unlike the ancillary or incidental flood control activity of the Tulare Water District, the Salt River District has statutory authority to engage in electric operations completely independent of its water activities. Additionally, the Board of Directors is expressly granted broad power to secure energy sources such as "coal, oil, gas, oil-shale, uranium and other nuclear materials, hotwater, steam and other geothermal materials or minerals, solar energy, wind, water and water power" outside of Arizona to serve the District's electric customers. A.R.S. § 45-935(B) (Supp. 1979). Thus, the District's legal authority to carry on its electric operation serving 240,000 customers, Facts ¶ 46, 85% of whom live within its boundaries, *id.*, is founded in an express and independent grant of statutory authority.

The so-called "business" purpose of the District's power activities is restricted to power generated by its hydro-electric facilities. *See* Exh. H, § VII (A). The authority of the District to build and operate steam generating plants is not derived from its reclamation activities, but rather the statutory grant of power under Arizona law. Letter from Moody R. Tidwell, III, Associate Solicitor, Division of Energy and Resources, Department of Interior, to State Sen. Morris Farr (August 24, 1976). Indeed the Articles of Incorporation of the Salt River Valley Water User's Association indicate that it had no authority to build electric plants without regard to irrigation. *See* Exh. A. Had the Arizona Legislature not authorized agricultural improvement districts to sell electricity independent of water operations, the Association as manager of the federal reclamation project, could never have embarked on the ambitious expansion program initiated by the District.

Even if the Court of Appeals was mistaken about the complex legal relationships surrounding the District, the court correctly applied *Salyer* on the facts as it understood them.

Phoenix. . . . In view of the broad scope and impact of its activities, the Salt River District cannot be characterized as having a special limited purpose." J.S., p. A-6.

After discussing the first of the two-prong analysis under *Salyer*, the Court of Appeals examined whether landowners disproportionately assumed the expense of District operations. With respect to the water operations, "[u]nlike *Salyer*, nearly 40% of the water delivered by the District is used and paid for in a manner unrelated to agriculture or landownership.[8] As to the electric operations, nearly all the citizens in the district are vitally affected in ways unrelated to ownership of real property. . . . Ninety-eight percent of the District's substantial revenues are produced by its electric utility operations." *Id.* "In view of the magnitude of the electric utility operations and the large percentage of water services which are used and paid for in a manner unrelated to land ownership, it would elevate form over substance to characterize the District as functioning solely for the benefit of landowners." *Id.* at A-7.

Thus, the opinion of the Court of Appeals is predicated exactly on the standard set forth in *Salyer*. In *Salyer* the Court looked at who "benefited" from the water district's activities and who was financially "burdened." 410 U.S. at

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[8] Although appellants describe this statement as "something of a mystery," they do not expressly dispute this conclusion. The appellants argue that the "use to which this water is placed once it is delivered . . . is of no concern to the District. . . ." J.S., p.12. It "merely stores, conserves, and delivers water that belongs to other people." *Id.* at 11. Therein, however, lies the telling distinction between the Salt River District and the water district in *Salyer*. In *Salyer*, water was stored and delivered for *agricultural* purposes. Here the beneficiaries are not only agriculture, but schools, homeowners, business and the hundreds of thousands of residents of central Arizona who depend upon the District for a reliable water supply.

729-31. Because the benefits and burdens of the Salt River District's activities and functions do not track landownership, the Court of Appeals should be sustained and its opinion affirmed.

II. THE DISTRICT'S VOTING SYSTEM FAILS TO MEET A STRICT STANDARD OF REVIEW.[9]

Because the District is not a special-purpose district as described in *Salyer,* the Court of Appeals applied the strict standard of review called for in *City of Phoenix v. Kolodziejski,* 399 U.S. 204 (1970). Applying that standard, the

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[9] The District's voting system would not even meet the test of reasonableness. In the proceedings below, the District claimed its acreage-voting system is reasonable since (1) it permits voting on a "debt-proportionate" basis, and (2) it connects voting strength to water use. Even under the more lenient rational basis test the acreage-voting system is unconstitutional. As the Court held recently, even in special district elections, the "classification of voters into 'interested' and 'non-interested' groups must still be reasonably precise, . . ." *Lockport v. Citizens for Community Action,* 430 U.S. 259, 266 (1977).

The District's voting system is essentially based upon a so-called "debt-proportionate" system. Under A.R.S. § 45-1047 (1956), District general obligation bonds are considered to be a lien upon real property in the District. Debt-proportionate voting is based upon the principle expressed by the District in a March 18, 1969, Resolution. "[T]he privilege of voting is commensurate with the burden of debt; that is, the more land a person owns and puts forth as collateral, the more he has at stake, and the greater influence he has in Project affairs." Exhibit Q, p.3.

The voting system, however, does not achieve the goal of authorizing voting commensurate with debt since all landowners may not participate in District elections in proportion to land owned. Only land owned by persons otherwise qualified to vote is eligible to be voted. A.R.S. § 45-909 (1979 Supp.). Land owned by corporations, trusts or partnerships, for example, is "burdened" with the debt of general obligation bonds but such lands are excluded from voting. For example, of 236,482 acres in the District, only 141,474 acres are eligible to be voted in the elections. Facts ¶¶ 35, 38. The lien on District lands presumably burdens all landowners, not simply landowners who are otherwise qualified electors. Thus, the goal of allowing those to vote in proportion to the debt on their land is clearly frustrated by restricting voting to only 60% of landowners. (footnote continued on page 10).

Court of Appeals properly considered whether nonproperty owners are substantially affected by the District's activities. *City of Phoenix; Cipriano v. City of Houma,* 395 U.S. 701 (1969).

The differences between the interests of nonproperty owners and the interests of property owners are not sufficiently substantial to justify excluding the former from the franchise. The claimed risk to appellants' property, J.S., p. 24, is not considered a sufficient compelling interest to justify excluding nonproperty owners from voting and has been specifically rejected by the Court in *City of Phoenix, supra.*

A.R.S. § 45-1047 (1956) provides that District general obligation bonds are a lien on property within the District. Presently this indebtedness amounts to approximately $1,221 per acre. Facts ¶ 49. (The value of the District's capital investment is about $3,500 per acre. Facts ¶ 54.). The lien on District lands is similar to the financial interest claimed by property taxpayers in *City of Phoenix.*

(footnote continued from page 9)

In *Salyer* the Court specifically found that *all* landowners, both corporate and individual, were extended the franchise. 410 U.S. at 730. It is obviously inconsistent to argue that "entrepreneurial risk" should be rewarded with absolute voting strength yet exclude business-owned property from participation. *Stewart v. Parish School Board of Parish of St. Charles,* 310 F. Supp. 1172, 1178 (E.D. La. 1970), *aff'd,* 400 U.S. 884 (1970). Thus, the exclusion of business entities from the District's voting scheme demonstrates conclusively that the so-called "debt-proportionate" voting system does not achieve its purpose of allowing voting commensurate with land ownership.

The acreage voting system also bears little relation to the water delivery functions of the District. *The appellants permit voting regardless of whether the voter actually uses District water.* In other words, the owner of a commercial acre of land has the same vote as the owner of an agricultural acre. If a purported basis of the voting system is to connect voting to water use, it is irrational to permit voting without any inquiry whatsoever as to whether or not the voter does in fact use District water.

City of Phoenix general obligation bonds are secured by the general taxing power of the City. Since property tax payments are relied upon to make debt service payments if other revenue sources are insufficient, general obligation bonds were considered by the Court to be in effect a lien on the real property subject to taxation. In *City of Phoenix*, the Court concluded, however, that the interests of non-property owners in the bond elections were not substantially different than the interests of property owners. The Court held that all residents of Phoenix have a substantial interest in public facilities and the availability of city services. 399 U.S. at 209.

Similarly, all residents of the District have a substantial interest in the electric service and water which it provides. *Cipriano v. City of Houma, supra.*[10] All citizens, whether they purchase electric service from the District or not, are affected by its electric operations, since they purchase services and products from others who do buy energy from the District. Even in those District areas served by Arizona Public Service Co., the District sells A.P.S. its power requirements. Facts ¶ 47. Certainly, all citizens are interested in assuring that the District continue to supply power to the Valley without interruption.

Also as in *City of Phoenix*, other revenues are available to meet the District's debt service obligations. District electric revenues have always been adequate to meet debt service assessments. According to the District:

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[10] "Of course, the operation of the utility systems — gas, water, and electric — affects virtually every resident of the city, nonproperty owners as well as property owners. All users pay utility bills, and the rates may be affected substantially by the amount of revenue bonds outstanding. Certainly property owners are not alone in feeling the impact of bad utility service or high rates, or in reaping the benefits of good service and low rates." *Cipriano v. City of Houma, supra* at 705.

> In all years to date, revenues . . . have been more than sufficient to meet all debt service requirements and the District has never used its taxing power for the Prior Lien Bonds. [general obligation bonds]

Exh. K, p.36. There is nothing to show that the financial health of the District will change. *See City of Phoenix, supra* at 212. Thus, since it is District electric customers who will ultimately satisfy the debt service requirement, they have a great interest in the outcome of District elections.[11]

The connection between land ownership and the District's water operations is likewise not substantially different than the impact of the water operations on all residents of the District. Almost two-thirds of city water used in the Phoenix metropolitan area is delivered by the District. Facts ¶ 42. About 25% of the water delivered by the District is for municipal uses; about 15% is for other non-agricultural uses. Facts ¶ 74. It is indisputable that all city residents, regardless of property ownership, rely upon a continuous and reliable supply of water from the District. Thus, all residents are substantially interested in District actions and therefore the Court of Appeals correctly held that restrictions on the franchise are impermissible.

III. REGARDLESS OF ITS ASSERTED "BUSINESS" CHARACTER, THE DISTRICT'S VOTING SYSTEM IS NOT IMMUNE FROM CONSTITUTIONAL SCRUTINY.

Section II of the Jurisdictional Statement advances the novel constitutional theory that public entities may be created with all the attributes of sovereignty and act in a manner which vitally and significantly affects people's lives, and yet be completely insulated from the traditional electoral process. Although appellees dispute the asserted

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[11] General obligation bonds, secured by District lands, were discontinued in 1972. Facts ¶ 49. Since then, the District has sold revenue bonds which are secured by a "pledge of revenues." *Id.*

profit-making purpose of the District,[12] in this section such a characterization will be accepted as true.

Putting all of the rhetoric about entrepreneurial risk aside, in appellants' words, "[t]he net effect of the Arizona Legislature's acreage-based board representation, therefore, is a subsidy for water users." J.S., p.21 n.10. Appellants fear that when agricultural interests no longer dominate the District's board, there may be some adjustment in the level of the subsidy.[13] It is, of course, constitutionally impermissible to deny people the franchise based upon speculation as to how they might vote. *Carrington v. Rash,* 380 U.S. 89 (1965).

The fallacy of appellants' position, however, is that the Court is not satisfied with the labels attached to governmental action but rather it examines the manner in which government affects people's lives.

> [T]he Court has never acknowledged that the States have power to do as they will with municipal corporations regardless of consequences. Legislative control of municipalities, no less than other state power, lies within the scope of relevant limitations imposed by the United States Constitution.

Gomillion v. Lightfoot, 364 U.S. 339, 344-45 (1960). The prerogative of the federal courts to review the constitutionality of voting schemes purporting to protect the interests of special segments of society is implicit in *Salyer.*

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[12] See Footnote 7, *supra.*

[13] Faced with growing public pressure over the water subsidy, the District board increased water charges from 30% to 88% in 1976. Facts ¶ 71.

Accepting the appellant's protestations that their activities are purely pecuniary,[14] the District could be viewed similarly to the water district in *Salyer*. But the Court in *Salyer* did not blindly put its imprimatur on the land-based voting system just because 85% of the land was owned by four corporations and the business-purpose of the water district was quite apparent. To the contrary, the Court examined the water district's activities and only after finding that it indeed did have a special, limited purpose and its activities did primarily affect landowners did it apply the reasonableness standard. Thus, the Court did not propose to exempt the affairs of the water district from public accountability simply because its activities served business interests.

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[14] Modifications to the District's one acre, one vote system, already implemented by the Arizona Legislature, significantly erode the appellants' contentions.

Until 1969, voting in District elections was restricted to owners of a minimum of one acre of real property, with owners of more than one acre entitled to votes equal in number to the acres owned. In response to a threat of a lawsuit by local municipalities challenging that voting system, the District agreed to support the voting of fractional acres and the Legislature subsequently amended the law to so authorize. 1969 Ariz. Sess. Laws, Ch. 134, § 2, *amending* A.R.S. § 45-983 (1956). According to a resolution adopted at the time by the District, the change in the voting system was designed to acknowledge the increasing urbanization of the District's area. Exh. Q.

In 1976, the District again supported amendments to the same statutes, this time expanding the Board to add four at-large members to be elected by property owners-one property owner, one vote. 1976 Ariz. Sess. Laws, Ch. 83, § 5, *amending* A.R.S. § 45-965 (1956).

> Mr. Jon Kyl representing the Salt River Project testified that S.R.P. supports the bill as it came out of the House. He said the bill would reduce the cost of power and give more representation to the homeowners who are served electricity by the S.R.P.

Arizona State Senate Natural Resources Committee, Minutes (May 25, 1976).

Thus, there have been periodic legislative inroads into the strict one acre, one vote standard.

Once the State of Arizona elected to establish a political subdivision to carry out certain activities, the constraints of the Constitution were invoked. The Court of Appeals correctly described the issue as whether

> having made the decision to create the entity and provide for the election of its directors, the state can deny the electoral franchise to citizens whose economic interest and natural environment are vitally affected by the entity's operations.

J.S.,p.A-8. Thus, even accepting appellants' contentions as true, their acreage voting system is still subject to constitutional scrutiny.

Admittedly, when the reclamation project was formed in 1903 and the District organized in 1936 our community was predominately agricultural. Landowners were no doubt the intended beneficiaries of the District's activities and the financial burdens fell predominately on them. The many references from the Stipulated Statement of Facts referred to by appellants reflect this historical truth.

But over the years our community rapidly became urbanized. The District's predecessor, the Water Users' Association, had 21 electric customers in 1921; Exh. K, p.A-5. Now, of course, the District is the second largest electric utility in Arizona and the seventh largest publicly-owned utility in the country. Despite the District's historical purpose and characterization by the Arizona Supreme Court, the constitutionality of its voting system must be measured against the manner in which it affects people's lives today. *Brown v. Board of Education,* 347 U.S. 483, 492-93 (1954). Regardless of how Arizona chooses to characterize the District, "the Constitution is concerned with the practical consequences, not the formal categorizations, of state law." *North Carolina v. Alford,* 400 U.S. 25, 37 (1970).

Appellants are correct that the State of Arizona must be free to make economic choices and obviously may grant subsidies to certain segments of our community. J.S., p. 21. Appellants are incorrect to assume that when special favors

are to be distributed through activities of governmental bodies, subject to the electoral process, the states may act in a manner oblivious to the Constitution. When the functions of local government impact in significant ways on people's lives, the Constitution requires equal access to the ballot. What makes constitutional sense in a remote agricultural water storage district takes on the trappings of feudalism in an urban, metropolitan community.

CONCLUSION

The Salt River Project Agricultural Improvement and Power District is unique among local units of government in this country. It is unique because of its critical role in supplying essential energy and water service to one of the fastest growing metropolitan regions in the United States. The Court of Appeals recognized that under the Court's opinion in *Salyer*, acreage voting in such a situation must be viewed according to traditional equal protection standards. The Court of Appeals faithfully applied *Salyer* and its opinion is not inconsistent with decisions of this Court or any other court. Because the issues presented by appellants are so unsubstantial, the opinion below should be affirmed.

Respectfully submitted,

Bruce Meyerson
Amy J. Gittler
Arizona Center For Law in the
Public Interest
P.O. Box 2783
Phoenix, Arizona 85002
(602) 252-4904

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